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Attorneys for Defendants
Santiago Ancira and
Savanna Trucking, LLC

IN THE UNITED STATES DISTRICT COURT

FOR THE STATE OF NEVADA

Kevin Wiltz, individually,

Plaintiff,

vs.

Santiago Ancira, an individual, Savanna
Trucking, LLC a Foreign Limited Liability
Corporation, Does I–X; Roe Companies I–X,
inclusive,

Defendants.

Case No. 2:22-cv-00555-JAD-BNW

**STIPULATION AND ORDER RE:
MOTION TO COMPEL PHYSICAL
EXAMINATION OF PLAINTIFF**

Plaintiff Kevin Wiltz (“**Plaintiff**”) and Defendants Santiago Ancira (“**Ancira**”) and
Savanna Trucking, LLC (“**Savanna**”) (collectively, “**Defendants**”), by and through their
respective counsel of record, stipulate and agree as follows:

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1 1. Pursuant to Fed. R. Civ. P. 35, Plaintiff shall present for a physical examination
2 (“**IME**”) by Dr. Jason Garber on December 8, 2022 at 8:30 a.m. at 3012 South Durango Drive,
3 89117.

4 2. The parties agree to the following parameters regarding the IME:

- 5 a. The IME will be conducted pursuant to Fed. R. Civ. P. 35.
- 6 b. Dr. Garber will conduct the IME.
- 7 c. The scope of the IME is limited to examination of the cervical and lumbar
8 spine.
- 9 d. The IME may not be audio or video recorded by Plaintiff or Dr. Garber.
- 10 e. Plaintiff shall take his driver’s license or other valid government issued ID
11 to the IME to present to Dr. Garber and/or his staff, to confirm Plaintiff’s
12 identity.
- 13 f. An observer shall not be allowed to accompany Plaintiff into the IME.
- 14 g. Dr. Garber will not require the Plaintiff to sign any paperwork other than a
15 “sign-in” sheet or authorization to perform the IME at the time of the IME.
- 16 h. All paperwork to be completed by Plaintiff shall be provided to Plaintiff’s
17 counsel at least ten (10) days prior to the IME and will be returned to
18 Defendants’ counsel five (5) days prior to the IME.
- 19 i. The IME shall not last longer than ninety (90) minutes unless extraordinary
20 circumstances are presented to Plaintiff’s counsel in writing, at least three
21 (3) days prior to the IME, which justify additional time.
- 22 j. Plaintiff shall not be required to wait in the waiting room for longer than
23 thirty (30) minutes before the commencement of the IME. However, if Dr.
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Garber has an emergency that requires Plaintiff to wait longer than 30 minutes, Plaintiff's counsel and Defendants' counsel will meet and confer about rescheduling before Plaintiff leaves Dr. Garber's office.

k. During the IME, Dr. Garber will not ask any questions relating to liability but may ask questions about the mode of injury but not in-depth questions about fault.

l. No x-rays or radiographs may be obtained during the IME.

m. Dr. Garber will not intentionally subject Plaintiff to physically painful maneuvers. However, it is acknowledged by the parties that during the course of the IME, Dr. Garber may ask Plaintiff to perform orthopedic tests related to Dr. Garber's evaluation which may, necessarily, elicit pain.

n. Dr. Garber will not perform any invasive procedures during the IME.

o. Plaintiff will not be required to disrobe from the waist down during the IME. Plaintiff shall wear loose-fitting shorts or pants to the IME to prevent the need for disrobing.

p. Dr. Garber shall not engage in ex parte contact with Plaintiff's treating health care providers.

q. Dr. Garber shall not discuss with Plaintiff his opinions regarding Plaintiff's medical treatment or his review of any films or reports reviewed.

r. Dr. Garber's report will be provided in accordance with Fed. R. Civ. P. 35(b).

s. If Plaintiff cancels the IME once scheduled, he will be required to reimburse Defendant within ten (10) days for the cost of the IME, which is \$3,000.

See Ex. 1.

t. Defendant's counsel shall be responsible for providing Dr. Garber with a copy of this stipulation and order prior to the IME.

3. In light of the foregoing, Defendants withdraw without prejudice their Motion to Compel Physical Examination of Plaintiff (ECF No. 18).

AMES & AMES, LLP	HICKS & BRASIER, PLLLC
Dated this 10th day of October, 2022.	Dated this 10th day of October, 2022.
<u>/s/ Chet A. Glover</u>	<u>/s/ Justin W. Wilson</u>
Byron L. Ames, Esq. (#7581) Chet A. Glover, Esq. (#10054) 8275 S. Eastern Ave, Ste. 200-723 Las Vegas, Nevada 89123 Attorneys for Defendants	Justin W. Wilson, Esq. (#14656) 2630 South Jones Boulevard Las Vegas, Nevada 89146 Attorneys for Plaintiff

ORDER

IT IS ORDERED that ECF No. 20 is GRANTED.

IT IS FURTHER ORDERED that ECF No. 18 is DENIED as moot.

IT IS FURTHER ORDERED that the hearing on ECF No. 18 set for 10/12/2022 is VACATED.

IT IS SO ORDERED

DATED: 11:44 am, October 11, 2022



BRENDA WEKSLER
UNITED STATES MAGISTRATE JUDGE